

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRIAN FORD,

Plaintiff,

-against-

THE BOARD OF EDUCATION OF THE
CITY SCHOOL DISTRICT OF THE CITY
OF NY a/k/a NYCBOE, NYCDOE,

Defendants.

1:19-CV-6327 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

By order dated November 6, 2019, the Court granted Plaintiff, who appears *pro se* and proceeds *in forma pauperis*, leave to file an amended complaint within 60 days of the date of that order. On January 8, 2020, the Court granted Plaintiff a 60-day extension of time to comply with the Court's November 6, 2019 order. Plaintiff has not filed an amended complaint yet. But on February 28, 2020, he filed an Application for the Court to Request *Pro Bono* Counsel ("application"). (ECF 9.) For the reasons discussed below, the Court denies Plaintiff's application without prejudice to Plaintiff's filing another application after he files an amended complaint in compliance with the Court's November 6, 2019 order.

The factors to be considered in ruling on an indigent plaintiff's request for counsel include the merits of the case, the plaintiff's efforts to obtain a lawyer, and the plaintiff's ability to gather the facts and present the case if unassisted by counsel. *See Cooper v. A. Sargenti Co.*, 877 F.2d 170, 172 (2d Cir. 1989); *Hodge v. Police Officers*, 802 F.2d 58, 60-62 (2d Cir. 1986). Of these, the merits are "[t]he factor which command[s] the most attention." *Cooper*, 877 F.2d at 172. Because it is too early in the proceedings for the Court to assess the merits of the action, the Court denies Plaintiff's application without prejudice to Plaintiff's filing another application

after he files an amended complaint in compliance with the Court's November 6, 2019 order.
(ECF 9.)

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: March 3, 2020
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge